

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

JENEE MARIE KLEIN,

Defendant.

CR 21-114-BLG-DLC-JTJ

FINDINGS AND
RECOMMENDATIONS

I. Synopsis

Defendant Jene Marie Klein (Klein) has been accused of violating the conditions of her supervised release. (Docs. 109 and 112) Klein admitted some of the violations. Klein's supervised release should be revoked. Klein should be sentenced to custody for a term of 4 months on Count 6 and to a term of custody of 4 months on Count 12, followed by a term of 32 months of supervised release on Count 6 and no term of supervised release to follow on Count 12, and with the custodial terms to run concurrently. During and up to the first 90 days of supervised release, Klein shall be placed at an in-patient substance abuse treatment facility, such as Passages.

Status

Klein plead guilty on January 3, 2023, to the offenses of Wire Fraud, in violation of Title 18 U.S.C. § 1343 as charged in Count 6 of the Indictment, and to the offense of Aggravated Identity Theft, in violation of 18 U.S.C. § 1028A(a)(1) as charged in Count 12 of the Indictment. (Doc. 86) Klein was sentenced to 1 month of custody on Count 6 and to 24 months of custody on Count 12, with the terms to run consecutively, followed by 3 years of supervised release on Count 6 and 1 year of supervised release on Count 12, with the terms of supervised release to run concurrently. (Doc. 103) Klein's current term of supervised release began on April 17, 2024.

Petition

On October 7, 2024, the United States Probation Office filed a Petition requesting that the Court revoke Klein's supervised release. (Doc. 109) The Petition alleged Klein violated conditions of her supervised release by: (1) using methamphetamine on or around September 12, 2024; (2) failing to comply with substance abuse testing requirements on September 23, 2024; (3) using methamphetamine on or around September 30, 2024; (4) failing to comply with substance abuse testing requirements on October 4, 2024; and (5) failing to make any restitution payments since July 3, 2024.

Amended Petition

On November 12, 2024, the United States Probation Office filed an Amended Petition requesting that the Court revoke Klein's supervised release. (Doc. 112) The Amended Petition alleged Klein violated conditions of her supervised release by the added violations of: (6) being in possession of a controlled substance, namely cannabinoids, on November 8, 2024; and (7) using cannabinoids and methamphetamine on October 23, 2024.

Initial Appearance

Klein appeared before the Court on November 12, 2024. Klein was represented by counsel. Klein stated that she had read the Amended Petition and that she understood the allegations against her. Klein waived her right to a preliminary hearing. The parties consented to proceed with the revocation hearing before the undersigned.

Revocation Hearing

Klein appeared before the Court on November 12, 2024. Klein requested the revocation hearing be continued. The Court continued the revocation hearing until November 26, 2024, at 1:30 p.m.

Second Revocation Hearing

Klein appeared before the Court on November 26, 2024. Klein admitted that she had violated the conditions of supervised release as set forth in the Amended

Petition by: (1) using methamphetamine on or around September 12, 2024; (2) failing to comply with substance abuse testing requirements on September 23, 2024; (3) using methamphetamine on or around September 30, 2024; and (4) failing to comply with substance abuse testing requirements on October 4, 2024. Klein denied allegation (5) failing to make any restitution payments since July 3, 2024; and (7) testing positive for cannabinoids and methamphetamine on November 8, 2024. Klein exercised her fifth amendment right regarding allegation (6) being in possession of a controlled substance, namely cannabinoids, on November 8, 2024. The Government moved to dismiss allegations 5, 6 and 7, which the Court granted. Klein's admitted violations are serious and warrant revocation of her supervised release.

Sentencing hearing

Klein appeared before the Court on November 26, 2024. Klein's violation is a Grade C violation. Her criminal history category is III. Klein's underlying offense for Count 6 is a Class C felony and for Count 12 is a Class E felony. Klein could be incarcerated for up to 24 months on Count 6 and to a term of custody up to 12 months on Count 12. Klein could be ordered to remain on supervised release for up to 36 months less any custody time imposed on Count 6 and ordered to remain on

supervised release up to 12 months less any custody time on Count 12. The United States Sentencing Guidelines call for a term of custody of 5 to 11 months.

III. Analysis

Klein's supervised release should be revoked. Klein should be sentenced to custody for a term of 4 months on Count 6 and to a term of custody of 4 months on Count 12, followed by a term of 32 months of supervised release on Count 6 and no term of supervised release to follow on Count 12, and with the custodial terms to run concurrently. During and up to the first 90 days of supervised release, Klein shall be placed at an in-patient substance abuse treatment facility, such as Passages.

IV. Conclusion

The Court informed Klein that the above sentence would be recommended to the Chief United States District Judge Brian Morris. The Court also informed Klein of her right to object to these Findings and Recommendations within 14 days of this issuance. The Court explained to Klein that Judge Morris would consider a timely objection before making a final determination on whether to revoke her supervised release and what, if any, sanction to impose.

The Court **FINDS:**

That JENEE MARIE KLEIN has violated the conditions of her supervised release by: (1) using methamphetamine on or around September 12, 2024; (2) failing to comply with substance abuse testing requirements on September 23, 2024; (3) using methamphetamine on or around September 30, 2024; and (4) failing to comply with substance abuse testing requirements on October 4, 2024

The Court **RECOMMENDS:**

That the District Court revoke Klein's supervised release and sentence Klein to custody for a term of 4 months on Count 6 and to a term of custody of 4 months on Count 12, followed by a term of 32 months of supervised release on Count 6 and no term of supervised release to follow on Count 12, and with the custodial terms to run concurrently. During and up to the first 90 days of supervised release, Klein shall be placed at an in-patient substance abuse treatment facility, such as Passages.

**NOTICE OF RIGHT TO OBJECT TO FINDINGS AND
RECOMMENDATIONS AND CONSEQUENCES OF FAILURE TO
OBJECT**

The parties may serve and file a written objections to the Findings and Recommendations within 14 days of their entry, as indicated on the Notice of Electronic Filing. 28 U.S.C. Section 636(b)(1). A United States district court judge will make a de novo determination regarding any portion of the Findings and Recommendations to which objection is made. The district court judge may accept, reject, or modify, in whole or in part, the Findings and Recommendations. Failure to timely file written objections may bar a de novo determination by the district court judge and may waive the right to appear and allocute before a district court judge.

DATED this 27th day of November 2024.



John Johnston
United States Magistrate Judge